

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SNOWLINE JOINT UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2015071107

ORDER GRANTING MOTION TO
AMEND COMPLAINT AND
DENYING MOTION TO JOIN PARTY

On July 15, 2015, Student filed a Due Process Hearing Request (complaint), naming Snowline Joint Unified School District (District) and two individual respondents. The hearing is scheduled for September 8, 2015.

On July 21, 2015, District filed a Notice of Representation, and the San Bernardino County Superintendent of Schools (County), although not named in Student's complaint, filed a notice of representation by the same attorney.

On July 27, 2015, Student filed a Motion for Leave to Amend the Due Process Hearing Request specifically naming District as the sole respondent and removing the two named individuals (amended complaint).

On July 28, 2015, District and County filed a notice of non-opposition to the motion to amend. District and County state they do not oppose motion to amend, except District and County contend County is a necessary party. District seeks to join County as a necessary party. Student filed no response to the joinder request.

Motion to Amend

An amended complaint may be filed when either (a) the other party consents in writing and is given the opportunity to resolve the complaint through a resolution session, or (b) the hearing officer grants permission, provided the hearing officer may grant such permission at any time more than five (5) days prior to the due process hearing. (20 U.S.C. §1415(c)(2)(E)(i).)¹ The filing of an amended complaint restarts the applicable timelines for the due process hearing. (20 U.S.C. §1415(c)(2)(E)(ii).)

¹ All statutory citations are to Title 20 United States Code unless otherwise indicated.

Student's amended complaint contains new allegations not in Student's original complaint. The hearing in this matter is scheduled to begin on September 8, 2015, and District did not oppose Student's motion, except to the extent Student has "eliminated" County as a party to the original complaint. Contrary to District's assertions, County was not named as party to the original complaint. Therefore, Student has not "eliminated" County as a party, and District's opposition on that ground is without merit.

Student's request to amend is timely and is granted. The amended complaint shall be deemed filed as of August 7, 2015, and all applicable timelines shall be reset as of August 7, 2015. OAH will issue a scheduling order with the new dates. All prior dates are vacated.

Joinder of Party

Education Code sections 56500 and 56501, subdivision (a), establish two requirements for including an entity in a special education due process hearing. First, the entity must be a public agency "providing special education or related services." (Ed. Code, § 56500.) Second, it must be "involved in any decisions regarding a pupil." (Ed. Code, § 56501, subd. (a).) A public agency cannot file a request for a due process hearing under Education Code section 56501 against another public agency. (Gov. Code, § 7585 subd. (d).)

The Individuals with Disabilities Education Act (20 U.S.C. § 1400 et. seq.) specifically exempts parents from any requirement that they file all possible issues at one time in the same due process complaint. Instead, the IDEA permits a parent to file separate due process complaints on separate issues, even if a due process complaint is already on file. (20 U.S.C. § 1415(o); Ed. Code, § 56509.)

In this case, District and County claim that County is appropriately joined as a party to this action because Student receives specialized academic instruction in a County-operated classroom and County personnel provide Student's services. Contrary to District's assertions, neither Student's complaint nor his amended complaint contain allegations against County. Specifically, Student does not allege that County was at any time a local educational agency that either was required to provide him with educational services, or that it actually did provide him with educational services at any time pertinent to Student's complaint. The only allegations in the amended complaint are made specifically and exclusively against District.

To the extent District and County contend the disposition of the action in the County's absence will impair or impede County's ability to protect that interest, or that District will be subject to a substantial risk of incurring double, multiple, or otherwise inconsistent obligations, their motion seeks to resolve issues between the two public agencies. OAH does not have jurisdiction over inter-agency disputes.

ORDER

1. Student's request to amend is timely and is granted.
2. The amended complaint shall be deemed filed as of August 7, 2015.
3. All applicable timelines shall be reset as of August 7, 2015.
4. OAH will issue a scheduling order with the new dates.
5. All prior dates are vacated.
6. District's and County's request to join County as a party is denied.

DATE: August 07, 2015

/s/

LAURIE GORSLINE
Administrative Law Judge
Office of Administrative Hearings